

The Legislative Fiscal Division

Presents:

Profile of... Judicial Branch

State of Montana



Oct. 2008

This agency profile will discuss...

- structure and funding
- primary functions and
- historical expenditures

The profile also includes information on how decision makers can effect change in the agency's expenditures along with a listing of pertinent statistics. For an explanation of terms used in this profile, consult the "Background on the Agency Profiles" at: <http://leg.mt.gov/css/fiscal/default.asp>.

General Fund Statewide Comparison FY 2008 (In Millions)



Let's begin by putting the agency's size in perspective by comparing it to state government as a whole.

Total Funds Statewide Comparison FY 2008 (In Millions)



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Section D
Judicial Branch, Law Enforcement and Justice



What the Agency Does



The Judicial Branch, an independent branch of government, provides an independent forum to resolve disputes; preserve the rule of law; and protect the rights and liberties guaranteed by the Constitutions of the United States and Montana. Additionally, Juvenile Probation is part of the District Court Operations Program within the Judicial Branch. The branch provides these services through:

- The Supreme Court, based in Helena, with seven justices
- District Courts (56 courts) split into 22 judicial districts with 43 district court judges, and staff including law clerks, assistants, court reporters, support staff, and juvenile probation officers
- A Water Court with a chief judge and various water masters and administrative staff specializing in adjudication of water rights
- Ten boards, commissions, and councils that oversee various aspects of legal practice in the state
- A state law library in Helena
- A Clerk of Court for the Supreme Court

The Supreme Court Justices and District Court judges are elected through a nonpartisan ballot. The Clerk of the Supreme Court is also an elected official.

The court system within Montana also includes a number of courts of limited jurisdiction that hear cases involving misdemeanor offenses, civil cases for amounts up to \$7,000, small claims up to \$3,000, landlord/tenant disputes, local ordinances, juvenile issues, etc. City or county governments provide most of the funding for courts of limited jurisdiction. However, the branch provides some items, such as some information technology assistance and equipment, training, and costs of annual meetings.



How Services Are Provided

The Judicial Branch provides services through a structure consisting of six divisions, which are:

- The Montana Supreme Court which is a “court of review and a court of original jurisdiction”. The court has jurisdiction over appeals from all Montana district courts as specified in the Montana Constitution. This court also hears appeals from the water and the Workers’ Compensation courts. It has original jurisdiction to hear and determine writs, attorney discipline, rules governing appellate procedure, and practice and procedures for the other courts. It also has supervisory control of all state courts and the entire judicial system. Also included in this division are the functions of the Office of Court Administrator who is the appointed administrative officer of the Supreme Court, administrative services, court services, and information technology development and support
- Boards and commissions assist the court in matters involving rule-making and oversight of Judicial Branch functions in Montana. Among the boards and commissions within the branch are the: Sentence Review Board; Commission on Practice; Commission on Courts of Limited Jurisdiction; Judicial Standards Commission; Commission on Unauthorized Practice; Commission on Self-Represented Litigants; Gender Fairness Commission; and the Judicial Nomination Commission
- The State Law Library is governed by the board of trustees composed of the seven members of the Supreme Court. The library, located in Helena, provides resource information to the public and those working within the court system

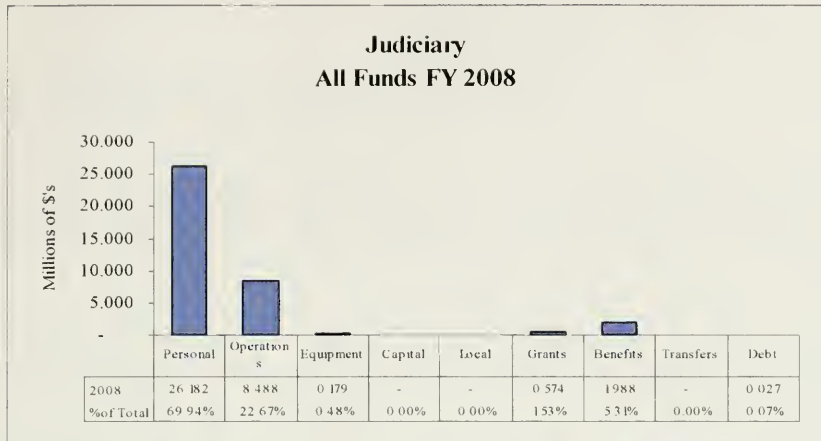


- District Court Operations provides funding for most of the functions of the District Courts in Montana. District Courts are courts of general jurisdiction that process felony cases, probate cases, civil cases and actions, special actions and proceedings, naturalization proceedings, writs, and ballot issues and have some appellate jurisdiction of cases from courts of limited jurisdiction. This program does not include funding for clerks of court or other elected county officials. However, it does include the function of Juvenile Probation and Juvenile Probation Officers.

In FY 2003, state assumption of District Court costs was implemented. This changed funding of District Courts from a county-funded function to a state-funded function, funded from the state general fund.

The 2005 Legislature passed SB 146, the Montana Public Defender Act, (codified in Title 47, MCA), which created a statewide system for the provision of public defender services administered by an Executive Branch agency effective July 1, 2006. The portion of the District Court Operations funding related to payment for public defender services was transferred to this new agency effective July 1, 2006 (FY 2007). The District Court Criminal Reimbursement Program (DCCRP) that was funded from a percentage of motor vehicle taxes and that paid for expenditures related to criminal felony cases was eliminated by the legislature.

- The Water Court, based in Bozeman, was created in 1979 to expedite and facilitate the adjudication of state law-based water rights and federal and Indian water right claims. HB 473 of the 2007 Legislative session repealed the water adjudication fee established by the 2005 Legislature and provided for a transfer of general fund into a state special revenue fund to fund acceleration of the water rights adjudication process. The Water Court utilizes some of this funding to support additional staff and operating costs associated with acceleration of the water adjudication process.
- The Office of the Clerk of the Supreme Court conducts the business of the Supreme Court, including controlling the dockets and filings, managing appellate mediations, maintaining the official roll of Montana attorneys, and licensing for the attorneys. The Clerk of the Supreme Court is an elected official.



How Services are Funded



The Judicial Branch is funded primarily with general fund (more than 87 percent if its funding is from this source). General fund supports Supreme Court Operations, Boards and Commissions, the State Law Library, District Court Operations, and the Clerk of the Supreme Court. General fund also provides matching funds for the federal court assessment program. A \$25.00 annual license tax charged to each attorney is deposited in the general fund.

State special revenue composes about 11 percent of the funding for the branch. Sources and uses of state special revenue expended by the branch include:

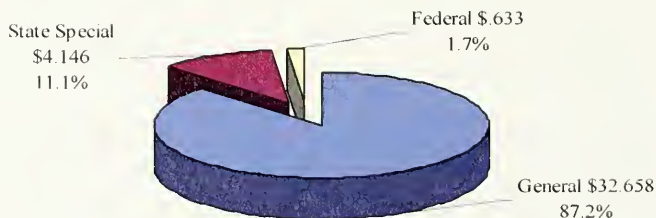
- Filing fees such as a \$9.00 fee for divorce cases, which provides around \$100,000 per year to support defense of indigent victims of domestic violence

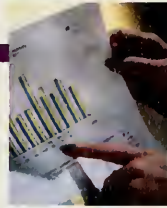


- County funds transferred to the state during court assumption implementation to fund employee leave liabilities that became a state responsibility after the assumption of the District Court operations
- Funds appropriated by the legislature to the Department of Corrections for the Juvenile Delinquency Intervention Program (JDIP) that are not expended during the fiscal year are transferred into a state special revenue fund for use by the branch for treatment and counseling and to support community programs for youths and juvenile offenders
- A fee imposed by the courts of limited jurisdiction for training of judges
- Resource Indemnity and Ground Water Assessment (RIGWA) Tax and interest from the Resource Indemnity Tax (RIT) trust funds that are used to support the Water Court and assist with adjudication of water right claims
- Funds transferred from the general fund into a state special revenue account to support the accelerated adjudication of water rights claims

Less than two percent of the funding for the branch comes from federal funds, primarily funds for the court assessment program. A small amount of proprietary funds contribute to the support of the state law library.

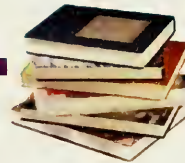
**Judiciary Funding by Source
FY 2008 (In Millions)**





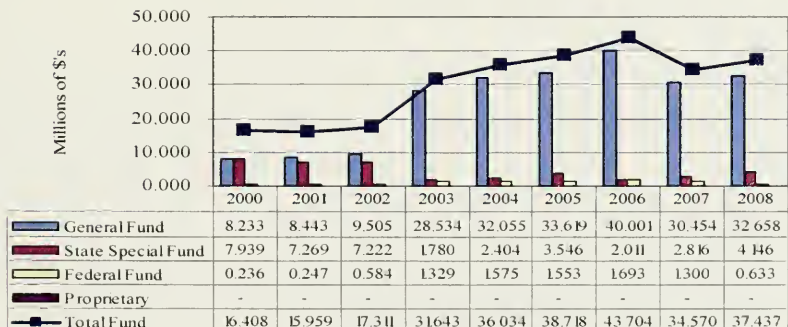
Related Data & Statistics

<i>Element</i>	<i>1998</i>	<i>2008</i>	<i>Significance of Data</i>
Number of Licensed Attorneys	3,499 total 2,605 in state	4,207 total 3,096 in state	The Clerk of the Supreme Court is responsible for licensing attorneys
Number of Supreme Court Case Filings	729	676	Data for calendar year 1997 and 2007, case filings are an indication of workload
Number of District Court Cases Filings	34,886	38,686	Calendar year data (1997 and 2007)
Referrals to Youth Court	Not available	10,593 referrals 8,509 informal handling 1,214 formal handling	Calendar year 2007 data



Expenditure History

Judiciary Funding History



Reasons for Expenditure Growth/Change

The annual average growth in general fund from 2000 to 2008 was 18.8 percent. Significant changes impacting general fund support for the Judiciary include:

- Increases between FY 2003 and 2006 are primarily due to state assumption of District Court costs and increases in caseload and costs related to state assumption
- A portion of the increase between FY 2005 and 2006 is related to increased general fund support for information technology needs and a change in accounting for a surcharge levied to support court information technology needs. Beginning in FY 2006, this surcharge is deposited to the general fund rather than a state special revenue fund
- Decreases between FY 2006 and 2007 are due to the creation of a statewide public defender system as an Executive Branch agency. Previously a portion of these costs were paid by the Judicial Branch

The average growth in state special revenue between 2000 and 2008 was a decrease of 8 percent. Significant changes impacting state special revenue include:

- Beginning in FY 2006, the information technology surcharge is deposited to the general fund rather than a state special revenue fund
- Beginning in FY 1998, motor vehicle revenue supporting the District Court Criminal Costs Reimbursement Program is deposited in a state special revenue fund rather than the general fund. This program was discontinued in FY 2003 with the state assumption of District Court costs
- Provision of state special revenue to accelerate the adjudication of water rights claims

The average growth in federal funds between 2000 and 2006 is 13.1 percent. The level of federal funding for the Judiciary varies with changes in programs administered, federal funds availability, and the success or lack thereof in receiving federal grant awards. In recent years, the branch has pursued and received some federal funding to assist with court information technology needs and drug treatment courts. However, this funding has decreased or been eliminated in recent months.

Agency Functions, State Purposes & Customers Served

The agency is structured to perform certain functions in support of general state government purposes. The following lists the major functions, purpose of provision of the functions, and primary customers served.

State Purposes	Major Agency Functions	Customers
<i>Provision of justice and the protection of life and property</i>	Supreme Court supervises the Montana court system and hears original and appeal cases	Users of the Montana court system
	Court administrator manages the support functions of the court system	The Montana court system
	Court IT manages all IT in all courts	The Montana court system, including courts of limited jurisdiction, and the public as online inquiry, etc., are developed and implemented
	Boards and commissions assist in the management of the Judiciary's activities	Participants and users of the Montana court system
	The law library provides legal information	Legal community, general public
	District Courts	Users of the court system
	District Court—juvenile probation	Users of the court system
	Training for courts of limited jurisdiction	Judges and staff of courts of limited jurisdiction
	Water Court	Users of the court system, those seeking adjudication of water rights

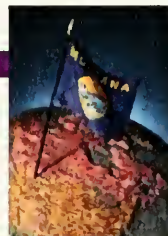




How The Legislature Can Effect Change

In order to change expenditure levels and/or agency activity, the legislature must address one or more of the following basic elements that drive costs.

- Change constitutional guarantees and/or provisions related to the judicial system
- Impact caseloads by changing statutes – criminal and civil proceedings. Also, in some cases, dollar value of the crime directs the case to either a district court or lower court. Cases could be shifted between courts by changing the dollar threshold. This could create costs shift since the state funds district courts while counties and cities fund lower court activities
- Increase or decrease the number of courts and/or create specialty courts (for example, family court, drug court, treatment courts). A change in the number and/or function(s) of a court may also increase or decrease efficiency, thus increasing or decreasing costs
- Change the number of counties in the state, which would in turn change the number of courthouses to be staffed and maintained
- Use of technology, such as video conferencing, may impact costs
- Change statutory requirements related to how courts are funded (such as state assumption of district court costs and responsibility for funding of defense costs for indigent individuals)



Statewide Factors with Impact

In addition to the factors above, a number of factors common to many agencies will also impact changes in expenditures over time.

- Economic Factors
 - Growth in population contributes to increased caseload, which increases costs
 - Decline in economic well being appears to increase crime and criminal caseload as well as civil litigation such as bankruptcies and foreclosures

- Legislative Factors
 - Statutory changes in responsibility and funding, such as the state assumption of district court costs and provision of defense services of indigent individuals
- Legal Factors
 - Litigation, such as the lawsuit that alleged deficiencies in Montana's system for the provision of defense services (public defenders) to indigent individuals
- Social Factors
 - Society's desire for laws to be enacted for the protection of life, liberty, and property and the expectation that courts will interpret laws and determine punishment for those found to have violated a law
- Business Factors
 - The "state of the art" in processes and procedures for accomplishing various functions, including the public's expectation that current technology is utilized to make courts and the justice system available and accessible to the public (for example, use of Internet applications and video conferencing, which were once rarely used and are now generally accepted and expected by the public)
- Act of Nature Factor
 - Events of nature could result in the loss of evidence and court records and severely impact the operations of the judicial system (for example, Hurricane Katrina)



Statutory References

The primary statutory references defining duties and responsibilities of the Judiciary are found at the following locations.

Article VII of the Montana Constitution

Alternative accessible formats of this document will be provided upon request. For further information call the Legislative Fiscal Division @ 444-2986, or visit our web site @ <http://www.leg.mt.gov/css/fiscal>



50 copies of this public document were published at an estimated cost of \$1.76 per copy, for a total cost of \$88.00. This includes \$88.00 for printing and \$0.00 for distribution.

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